

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
Richmond Division**

ANDRE L. TURNER,

Petitioner,

v.

Civil Action No. 3:13cv712

UNITED STATES, et al.,

Respondents.

MEMORANDUM OPINION

Andre L. Turner, a federal prisoner incarcerated in the Federal Medical Center, Lexington, Kentucky, was convicted in this Court, and sentenced on October 29, 2009. (§ 2241 Pet. ¶ 4, ECF No. 1.) On October 18, 2013, the Court received from the United States District Court of the Eastern District of North Carolina a motion pursuant to 28 U.S.C. § 2255 filed by Turner. By Memorandum Order entered November 7, 2013, the Court warned Petitioner that if he wished to invoke this Court's jurisdiction under 28 U.S.C. § 2255, he must do so unequivocally and in accordance with the rules governing such actions. See Rules Governing Section 2255 Proceedings for the United States District Courts, Rule 2(b). Accordingly, the Court directed Turner that he must file an amended petition, on the enclosed forms marked with the criminal number from this Court, **3:08CR488**, within eleven (11) days of the date of entry hereof.

Turner has failed to comply with the Court's directive. Turner failed to complete and return the § 2255 standardized form. Such conduct demonstrates a willful failure to prosecute. See Fed. R. Civ. P. 41(b). Accordingly, the action will be dismissed without prejudice.

An appeal may not be taken from the final order in a § 2255 proceeding unless a judge issues a COA. 28 U.S.C. § 2253(c)(1)(B). A COA will not issue unless a prisoner makes "a substantial showing of the denial of a constitutional right." 28 U.S.C. § 2253(c)(2). The requirement is satisfied only when "reasonable jurists could debate whether (or, for that matter, agree that) the petition should have been resolved in a different manner or that the issues presented were 'adequate to deserve encouragement to proceed further.'" Slack v. McDaniel, 529 U.S. 473, 484 (2000) (quoting Barefoot v. Estelle, 463 U.S. 880, 893 & n.4 (1983)). Turner fails to satisfy this requirement.

The Clerk is directed to send a copy of the Memorandum Opinion to Turner.

/s/ *REP*

Robert E. Payne
Senior United States District Judge

Date: *January 3, 2014*
Richmond, Virginia *REP*